

Remarks

Reconsideration of the present application, as amended, is respectfully requested.

Of pending claims 1-33, all claims were rejected. Claims 1, 3, 5-12, 16-23, and 27-33 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 6,616,352, which issued to J. Shigeta *et al.* The applicants respectfully disagree with this rejection and make their arguments with respect to independent claims 1, 8, 12, 19, 23 and 30, which have been amended to better point and distinctly claim the applicants' invention.

As amended, the independent claims recite an optical fiber communication system in which a modulated optical signal is carried by an optical fiber of the optical fiber communication system. The system described in the cited Shigeta patent is a bidirectional optical space transmission system, something quite different from the applicants' invention. The applicants have also added new claims 34-39 which are dependent respectively upon independent claims 1, 8, 12, 19, 23 and 30 to better distinguish the applicants' invention from the cited Shigeta optical space transmission system.

Furthermore, the independent claims all call for "utility data (applicants' emphasis)," not a pilot signal of Fig. 5 (*see* col. 6, lines 7-8) which the Examiner has identified as utility data. The pilot signal in the Shigeta system in itself does not carry information or data, but it is used to generate information, i.e., the alignment of the pair of optical transmission apparatuses 70 and 71 of Fig. 4. Stated differently, the Shigeta pilot signal, which is purported to be utility data, is a base line signal, not indicative of the state or operation of the network, from which utility information is then generated. But this is not what is claimed by the applicants.

Dependent claims illustrate the distinction of the claimed "utility data" over the pilot signal of the Shigeta patent. For example, dependent claims 5, 10, 16, 21, 27 and 32 recite that, "said utility data comprises a signal strength indication." The Shigeta pilot signal itself is not a signal strength indication but rather is used to generate an indication of signal strength to direct the tracking functions of the optical transmission apparatuses 70 and 71. Likewise, amended claims 6, 11, 17, 22, 28 and 33 recite, "said utility data comprises firmware for updating operation of equipment of said optical fiber communication system." In passing, with respect to

the rejection of dependent claims 5, 10, 16, 21, 27, 32; and 6, 11, 17, 22, 28 and 33, the applicants request that the Examiner specifically point the teaching in the Shigeta patent, col. 6, lines 1-31 that the pilot signal, the purported utility data, comprises a signal strength indication or firmware. The applicants were unable to find such a teaching.

Therefore, in view of the amendments above and the remarks directed thereto, the applicants request that all rejections be withdrawn, that claims 1-39 be allowed and the case be passed to issue. If a telephone conference would in any way expedite the prosecution of the application, the Examiner is asked to call the undersigned at (408) 868-4088.

Respectfully submitted,

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